

AMENDED IN ASSEMBLY AUGUST 17, 2015

**SENATE BILL**

**No. 21**

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**Introduced by Senator Hill**

December 1, 2014

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An act to amend Sections 87207 and 89506 of the Government Code, relating to the Political Reform Act of 1974.

LEGISLATIVE COUNSEL'S DIGEST

SB 21, as amended, Hill. Political Reform Act of 1974: gifts of travel.

The Political Reform Act of 1974 provides for the comprehensive regulation of campaign financing and related matters, including the reporting of gifts, as defined. The act prohibits specified officers from receiving gifts in excess of \$440 in value from a single source in a calendar year. The act exempts gift payments for the actual costs of specified types of travel that are reasonably related to a legislative or governmental purpose, or to an issue of state, national, or international public policy, from the annual limit on the value of gifts from a single source.

This bill would require a nonprofit organization *that regularly organizes and hosts travel for elected officials, as specified, and that* pays for these types of travel for an elected state officer or local elected officeholder to disclose the names of donors ~~responsible for funding the payments~~, *who, in the preceding year, both donated to the nonprofit and accompanied an elected officer or officeholder for any portion of the travel*, as specified. The bill would require a person who receives a gift of a travel payment from any source to report the travel destination on his or her statement of economic interests.

A violation of the Act's provisions is punishable as a misdemeanor. By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes upon a  $\frac{2}{3}$  vote of each house and compliance with specified procedural requirements.

This bill would declare that it furthers the purposes of the act.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 87207 of the Government Code is  
2 amended to read:

3 87207. (a) If income is required to be reported under this  
4 article, the statement shall contain, except as provided in  
5 subdivision (b):

6 (1) The name and address of each source of income aggregating  
7 five hundred dollars (\$500) or more in value, or fifty dollars (\$50)  
8 or more in value if the income was a gift, and a general description  
9 of the business activity, if any, of each source.

10 (2) A statement whether the aggregate value of income from  
11 each source, or in the case of a loan, the highest amount owed to  
12 each source, was at least five hundred dollars (\$500) but did not  
13 exceed one thousand dollars (\$1,000), whether it was in excess of  
14 one thousand dollars (\$1,000) but was not greater than ten thousand  
15 dollars (\$10,000), whether it was greater than ten thousand dollars  
16 (\$10,000) but not greater than one hundred thousand dollars  
17 (\$100,000), or whether it was greater than one hundred thousand  
18 dollars (\$100,000).

19 (3) A description of the consideration, if any, for which the  
20 income was received.

1 (4) In the case of a gift, the amount and the date on which the  
2 gift was received, and the travel destination for purposes of a gift  
3 that is a travel payment, advance, or reimbursement.

4 (5) In the case of a loan, the annual interest rate, the security,  
5 if any, given for the loan, and the term of the loan.

6 (b) If the filer's pro rata share of income to a business entity,  
7 including income to a sole proprietorship, is required to be reported  
8 under this article, the statement shall contain:

9 (1) The name, address, and a general description of the business  
10 activity of the business entity.

11 (2) The name of every person from whom the business entity  
12 received payments if the filer's pro rata share of gross receipts  
13 from that person was equal to or greater than ten thousand dollars  
14 (\$10,000) during a calendar year.

15 (c) If a payment, including an advance or reimbursement, for  
16 travel is required to be reported pursuant to this section, it may be  
17 reported on a separate travel reimbursement schedule which shall  
18 be included in the filer's statement of economic interest. A filer  
19 who chooses not to use the travel schedule shall disclose payments  
20 for travel as a gift, unless it is clear from all surrounding  
21 circumstances that the services provided were equal to or greater  
22 in value than the payments for the travel, in which case the travel  
23 may be reported as income.

24 SEC. 2. Section 89506 of the Government Code is amended  
25 to read:

26 89506. (a) Payments, advances, or reimbursements for travel,  
27 including actual transportation and related lodging and subsistence  
28 that is reasonably related to a legislative or governmental purpose,  
29 or to an issue of state, national, or international public policy, are  
30 not prohibited or limited by this chapter if either of the following  
31 applies:

32 (1) The travel is in connection with a speech given by the elected  
33 state officer, local elected officeholder, candidate for elective state  
34 office or local, elective office, an individual specified in Section  
35 87200, member of a state board or commission, or designated  
36 employee of a state or local government agency, the lodging and  
37 subsistence expenses are limited to the day immediately preceding,  
38 the day of, and the day immediately following the speech, and the  
39 travel is within the United States.

(2) The travel is provided by a government, a governmental agency, a foreign government, a governmental authority, a bona fide public or private educational institution, as defined in Section 203 of the Revenue and Taxation Code, a nonprofit organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, or by a person domiciled outside the United States who substantially satisfies the requirements for tax-exempt status under Section 501(c)(3) of the Internal Revenue Code.

(b) Gifts of travel not described in subdivision (a) are subject to the limits in Section 89503.

(c) Subdivision (a) applies only to travel that is reported on the recipient's statement of economic interests.

(d) For purposes of this section, a gift of travel does not include any of the following:

(1) Travel that is paid for from campaign funds, as permitted by Article 4 (commencing with Section 89510), or that is a contribution.

(2) Travel that is provided by the agency of a local elected officeholder, an elected state officer, member of a state board or commission, an individual specified in Section 87200, or a designated employee.

(3) Travel that is reasonably necessary in connection with a bona fide business, trade, or profession and that satisfies the criteria for federal income tax deduction for business expenses in Sections 162 and 274 of the Internal Revenue Code, unless the sole or predominant activity of the business, trade, or profession is making speeches.

(4) Travel that is excluded from the definition of a gift by any other provision of this title.

(e) This section does not apply to payments, advances, or reimbursements for travel and related lodging and subsistence permitted or limited by Section 170.9 of the Code of Civil Procedure.

(f) (1) A nonprofit organization that *regularly organizes and hosts travel for elected officials and that* makes payments, advances, or reimbursements that total more than ten thousand dollars (\$10,000) in a calendar year, or that total more than five thousand dollars (\$5,000) in a calendar year for a single person, for travel by an elected state officer or local elected officeholder as described in subdivision (a) shall disclose to the Commission

1 the names of the donors responsible for funding those payments,  
2 advances, or reimbursements. The disclosure of donor names shall  
3 be limited to donors who *did both of the following in the preceding*  
4 *year: donated*

5 (A) *Donated* one thousand dollars (\$1,000) or more to the  
6 nonprofit organization in a calendar year and who knew or had  
7 reason to know that the donation would be used for a payment,  
8 advance, or reimbursement for travel by an elected state officer or  
9 local elected officeholder as described in subdivision (a).  
10 organization.

11 (2) A donor knows or has reason to know that his or her donation  
12 will be used in the manner described in paragraph (1) under any  
13 of the following conditions:

14 (A) The donor directed the nonprofit organization to use the  
15 donation to make a payment, advance, or reimbursement for travel  
16 by an elected state officer or local elected officeholder as described  
17 in subdivision (a).

18 (B) The donor made the donation in response to a message or  
19 solicitation for donations for the stated purpose of making a  
20 payment, advance, or reimbursement for travel by an elected state  
21 officer or local elected officeholder as described in subdivision  
22 (a).

23 (C) The donor, or an agent, employee, or representative of the  
24 donor, accompanied an elected state officer or local elected  
25 officeholder for any portion of travel as described in subdivision  
26 (a).

27 (3)

28 (B) *Accompanied an elected state officer or local elected*  
29 *officeholder, either personally or through an agent, employee, or*  
30 *representative, for any portion of travel described in subdivision*  
31 *(a).*

32 (2) *For purposes of this subdivision, an organization “regularly*  
33 *organizes and hosts travel for elected officials” if the sum of the*  
34 *organization’s expenses that relate to any of the following types*  
35 *of activities with regard to elected officials was greater than*  
36 *one-third of its total expenses reflected on the organization’s*  
37 *Internal Revenue Service Form 990, or the equivalent, filed most*  
38 *recently within the last twelve months:*

39 (A) *Travel.*

40 (B) *Study tours.*

1 (C) Conferences, conventions, and meetings.

2 (3) ~~For purposes of Sections 87103, 87207, and 89503, a~~  
3 ~~nonprofit organization that makes payments, advances, or~~  
4 ~~reimbursements for travel by an elected state officer or local elected~~  
5 ~~officeholder as described in subdivision (a) is the source of the~~  
6 ~~gift unless the nonprofit organization. This subdivision does not~~  
7 ~~preclude a finding that a nonprofit organization is acting as an~~  
8 ~~intermediary or agent of the donor. If the nonprofit organization~~  
9 ~~is acting as an intermediary or agent of the donor, all of the~~  
10 ~~following apply:~~

11 (A) The donor to the nonprofit organization is the source of the  
12 gift.

13 (B) The donor shall be identified as a financial interest under  
14 Section 87103.

15 (C) The gift shall be reported as required by Section 87207.

16 (D) The gift shall be subject to the limitations on gifts specified  
17 in Section 89503.

18 (4) *For purposes of this subdivision, a nonprofit organization*  
19 *includes an organization that is exempt from taxation under Section*  
20 *501(c)(3) or Section 501(c)(4) of the Internal Revenue Code.*

21 SEC. 3. No reimbursement is required by this act pursuant to  
22 Section 6 of Article XIII B of the California Constitution because  
23 the only costs that may be incurred by a local agency or school  
24 district will be incurred because this act creates a new crime or  
25 infraction, eliminates a crime or infraction, or changes the penalty  
26 for a crime or infraction, within the meaning of Section 17556 of  
27 the Government Code, or changes the definition of a crime within  
28 the meaning of Section 6 of Article XIII B of the California  
29 Constitution.

30 SEC. 4. The Legislature finds and declares that this bill furthers  
31 the purposes of the Political Reform Act of 1974 within the  
32 meaning of subdivision (a) of Section 81012 of the Government  
33 Code.